



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-583-858)

Certain Carbon and Alloy Steel Cut-To-Length Plate from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Antidumping Duty Investigation; and Amended Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On January 9, 2020, the United States Court of International Trade (the Court) sustained the final results of redetermination pertaining to the antidumping duty (AD) investigation of certain carbon and alloy steel cut-to-length plate (CTL plate) from Taiwan. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the *Amended Final Determination* in the investigation of CTL plate from Taiwan, and that Commerce is amending the *Amended Final Determination* with respect to the application of partial adverse facts available (AFA) in making our difference-in-merchandise adjustment.

DATES: Applicable January 19, 2020.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0413.

SUPPLEMENTARY INFORMATION:

Background

On April 4, 2017, Commerce published the *Final Determination* of the AD investigation of CTL plate from Taiwan, in which Commerce applied partial AFA to China Steel Corporation (China Steel) because: (a) it failed to provide requested information by the established deadlines or in the form and manner requested by Commerce; (b) it provided information in its questionnaire responses that we could not verify as accurate because our verification revealed errors and failures in China Steel's cost reporting; and (c) its conduct significantly impeded the investigation.¹ Moreover, we found that China Steel failed to cooperate by not acting to the best of its ability to comply with Commerce's request for information by not providing timely and accurate cost data for certain control numbers (CONNUMs), and as such, that the application of partial AFA was warranted.² The *Final Determination* and *Amended Final Determination* were appealed to the Court by China Steel, and on August 6, 2019, the Court held that Commerce could not apply an adverse inference when calculating costs specifically related to the physical differences of China Steel's products, and remanded the *Amended Final Determination* for a redetermination consistent with the Court's opinion.³ In accordance with the Court's *Remand*

¹ See *Certain Carbon and Alloy Steel Cut-To-Length Plate from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 82 FR 16372 (April 4, 2017) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders*, 82 FR 24096 (May 25, 2017) (*Amended Final Determination*), and accompanying Memorandum, "Amended Final Determination of the Less-Than-Fair-Value Investigation of Carbon and Alloy Steel Cut-to-Length Plate from Taiwan: Allegation of Ministerial Error for China Steel Corporation."

² *Id.*

³ See *China Steel Corp. v. United States*, Consol. Court No. 17-00152 (August 6, 2019) (*Remand Order*).

Order, Commerce recalculated a rate for China Steel.⁴ On January 9, 2020, the Court sustained Commerce’s *Remand Redetermination*.⁵ Therefore, the effective date of this notice is January 19, 2020.

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s January 9, 2020 judgment sustaining Commerce’s *Remand Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce’s *Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act. Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Determination

Because there is now a final court decision, Commerce is amending the *Amended Final Determination*. China Steel’s rate, as determined in the *Remand Redetermination*, is 6.73 percent.

⁴ See Final Results of Redetermination Pursuant to *China Steel Corp. v. United States*, Consol. Court No. 17-00152, Slip. Op. 19-106 (CIT August 6, 2019), dated December 3, 2019 (*Remand Redetermination*).

⁵ See *China Steel Corp. v. United States*, Court No. 17-152, Slip Op. 20-5 (CIT January 9, 2020).

⁶ See *Timken Co. v. United States*, 893 F. 2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Cash Deposit Requirements

We have revised China Steel's cash deposit rate to 6.73 percent, and we will issue instructions to U.S. Customs and Border Protection within five days of the publication of this notice.

Notifications to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: January 28, 2020

Jeffrey I. Kessler
Assistant Secretary

for Enforcement and Compliance

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